

RULES AND REGULATIONS

Title 7—AGRICULTURE

DEPARTMENT OF AGRICULTURE

[7 PA. CODE CH. 128]

Fees

The Department of Agriculture (Department) amends § 128.3 (relating to fees) to read as set forth in Annex A. This final-omitted regulation is adopted under the general authority of the Secretary of the Department to promulgate appropriate regulations to carry out section 7(b) of the Pesticide Control Act of 1973 (act) (3 P. S. § 111.27(b)) and the specific authority in section 37.1 of the act (3 P. S. § 111.57a). This final-omitted regulation will adjust the fees the Department may assess for pesticide product registration, certification, registration and licensing of pesticide applicators, as well as pesticide application businesses.

Contact with Affected Parties

Public notice of intention to amend § 128.3 under the procedures specified in sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) (CDL), has been omitted as authorized under section 204(3) of the CDL (45 P. S. § 1204(3)), because the Department finds that these procedures under the circumstances, are unnecessary and impracticable. The Department first proposed the fee increase at the Pesticide Advisory Board (Board) public meeting in May 1999. In June 1999, over 6,000 copies of the private pesticide applicator newsletter, "*Pesticide Highlights*," were mailed to all pesticide application businesses and pesticide dealers licensed by the Department. The newsletter contained an article announcing the proposed fee increase and solicited comments. As a result, the Department received 22 comments from these groups of affected businesses. Over 21,700 copies of "*Pesticide Highlights*" were mailed November 1999 to all private certified pesticide applicators and to members of the General Assembly. The newsletter again contained an article announcing the proposed fee increase and solicited comments. As a result, the Department received 14 comments from private applicators. The Department mailed an informational notice of the proposed fee increase requesting comments in November 1999 to all pesticide registrants along with the year 2000 product-renewal application (1,100 copies). The Department received and responded to seven comments from product registrants.

The proposed fee increase regulation and the public comments were discussed at the September 1999, December 1999, March 2000, November 2000 and the most recent Board public meeting in March 2001. The Department also met with the three largest trade associations for the pesticide registrant groups on March 28, 2000, to discuss the proposed fee increase and to discuss any suggested comments or changes. *The Reading Times* newspaper published an article on August 2, 1999, regarding the Department's proposed fee increases. Representatives of the Department attended board meetings of the Pennsylvania Pest Control Association, Lawn Care Association of Pennsylvania and PennAg Industries Association to discuss the fiscal analysis regarding the proposed fee increase. These professional associations represent the majority of the regulated businesses and individuals affected by the regulation. The Department presently regulates 1,100 Pesticide Product Registrants

(Manufacturers & Distributors); 10,500 Commercial Applicators; 5,750 Pesticide Application Businesses; and 2,500 Registered Pesticide Technicians. As part of its out-reach program, eight different regulatory proposals were considered by the Department, the Board and the affected groups. The final-omitted regulation represents a compromise developed through consensus and years of cooperation with regulated individuals and businesses.

Rationale for Fee Increase

The pesticide program in this Commonwealth is required by the act to be a self-funding program. Specifically, section 37.1 of the act provides that if the revenues raised by fees, fines and civil penalties imposed under the act are not sufficient to meet expenditures for the administration and enforcement of the act over a 2-year period, the Secretary is authorized to increase fees by regulation so that the "projected revenues will meet or exceed projected expenditures." The Department is projecting a deficit from the year 2001 and beyond. The "fees" were set by regulation and with the exception of the pesticide product registration—which was modified in 1991—have not changed since 1986. During the past 15 years, the Department has been able to provide the citizens of this Commonwealth with protection and services as required by both Federal and State laws, without increasing the cost to the regulated community. It is the Department's opinion that to continue to carry out its legislative mandate to protect the health and welfare of the citizens of this Commonwealth and the environment, it is necessary to increase the fees charged to the regulated industries and individuals. As part of its discussions and agreement with the regulated community, the Department has determined that it will not increase the current fee structure for agronomic producers, public applicators and restricted-use pesticide dealers.

Fiscal Impact

Commonwealth

The Department has determined that the final-omitted regulation will have no adverse fiscal impact on the Commonwealth other than a one-time cost of approximately \$3,500 for postage and billing/ form conversion and data processing and programming.

Political Subdivisions

The final-omitted regulation will have direct fiscal impact on political subdivisions in that the approximate 400 local governments which hold a pesticide business license will incur a \$10 per year renewal fee increase.

Private Sector

The final-omitted regulation will have a direct fiscal impact on the private sector as set forth more fully in Annex A.

General Public

The final-omitted regulation will not have any fiscal impact on the general public.

Regulatory Review

Under section 5.1(c) of the Regulatory Review Act (71 P. S. § 745.5a(c)), on August 21, 2001, the Department submitted a copy of the regulation with proposed rule-making omitted to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the Senate and House Agriculture and Rural Affairs Committees. On the same date, the final-omitted regulation was

submitted to the Office of Attorney General for review and approval as provided in the Commonwealth Attorneys Act (71 P.S. §§ 732-101—732-506). In addition to submitting the final-omitted regulation, the Department has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the Department in compliance with Executive Order 1996-1.

Under section 5.1(d) of the Regulatory Review Act, the final-omitted regulation was deemed approved by the House and Senate Committees on September 10, 2001. IRRC met on September 20, 2001, and approved the final-omitted regulation.

Contact Person

Individuals interested in further information may contact Lyle Forer, Director, Bureau of Plant Industry, Department of Agriculture, 2301 N. Cameron Street, Harrisburg, PA 17110-9408, (717) 772-5200.

Findings

The Department finds that:

(1) Public notice of intention to amend § 128.3 by this order under the procedures specified by sections 201 and 202 of the CDL has been omitted under section 204(2) of the CDL because the Department has, for good cause, found that notice is unnecessary and impractical in that the regulated community participated in the drafting of the amended regulation and previously commented on the fee increases as more fully set forth in this Preamble.

(2) The persons subject to and affected by the final-omitted regulation as adopted by this order have received actual notice of the Department's intention to amend § 128.3 in advance of final-omitted rulemaking under section 204(2) of the CDL.

(3) The amendment of regulation of the Department relating to fee increases in the manner provided in this order is necessary and appropriate for the proper administration of its authorizing statute.

Order

The Department, acting under the authorizing statute, orders that:

(a) The regulations of the Department, 7 Pa. Code Chapter 128, are amended by amending § 128.3 to read as set forth in Annex A.

(b) The Secretary of the Department shall submit this order and Annex A to the Office of General Counsel and Office of Attorney General for approval as to form and legality as required by law.

(c) The Secretary of Department shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(d) This order shall take effect upon publication in the *Pennsylvania Bulletin*.

SAMUEL E. HAYES, Jr.,
Secretary

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 31 Pa.B. 5622 (October 6, 2001).)

Fiscal Note: 2-134. (1) General Fund; (2) Implementing Year 2001-02 is \$3,500; (3) 1st Succeeding Year 2002-03 is \$-0-; 2nd Succeeding Year 2003-04 is \$-0-; 3rd Succeeding Year 2004-05 is \$-0-; 4th Succeeding Year 2005-06 is \$-0-; 5th Succeeding Year 2006-07 is \$-0-; (4) Fiscal Year 2000-01 \$2,205,638; Fiscal Year 1999-00

\$1,858,419; Fiscal Year 1998-99 \$2,036,087; (7) General Government Operations; (8) recommends adoption.

Annex A

TITLE 7. AGRICULTURE

PART V. BUREAU OF PLANT INDUSTRY

CHAPTER 128. PESTICIDES

Subchapter A. GENERAL PROVISIONS

§ 128.3. Fees.

(a) *Pesticide dealer's license.* The annual fee for a pesticide dealer's license is \$10. The fee for a duplicate pesticide dealer's license is \$3.

(b) *Pest management consultant's license.* The annual fee for a pest management consultant's license is \$25. The fee for a duplicate pest management consultant license is \$8.

(c) *Pesticide application business' license.* The annual fee for a pesticide application business' license is \$35. The fee for a duplicate pesticide application business license is \$8.

(d) *Commercial applicator's certificate.* The annual fee for the commercial applicator's certificate is \$40. When the initial certification requires examination, no fee will be charged. The fee for a duplicate commercial applicator's certificate is \$10.

(e) *Public applicator's certificate.* The triennial fee for a public applicator's certificate is \$10. A fee is not required when the initial certification requires examination. The fee for a duplicate public applicator's certificate is \$3.

(f) *Examination fees.* Examination fees are nonrefundable. The following examination fees, with payment made in advance, will be charged:

(1) Commercial/public applicator's core examination—\$50.

(2) Commercial/public applicator's category examination—\$10.

(3) Private applicator's examination—no charge.

(4) Pest management consultant's examination—no charge except that a fee of \$5 will be charged if an examination is requested on other than a regularly scheduled examination date.

(g) *Registration fee for a pesticide application technician.*

(i) *Commercial pesticide application technician.* An annual registration fee of \$30 will be charged to register a commercial pesticide application technician with the Department. The fee for a duplicate technician registration is \$7.

(ii) *Public pesticide application technician.* An annual registration fee of \$20 will be charged to register a public pesticide application technician with the Department. The fee for a duplicate technician registration is \$7.

(h) *Private applicator's permit.* The triennial fee for a private applicator's permit is \$10. The fee for a duplicate private applicator's permit is \$3. A fee will not be charged for a special permit which may be issued in conjunction with the private applicator's permit.

(i) *Product registration.* The annual fee to register a pesticide is \$135.

[Pa.B. Doc. No. 01-1834. Filed for public inspection October 12, 2001, 9:00 a.m.]

Title 37—LAW

MUNICIPAL POLICE OFFICERS' EDUCATION AND TRAINING COMMISSION

[37 PA. CODE CH. 203]

Administration of the Training Program

The Municipal Police Officers' Education and Training Commission (Commission) by this order amends Chapter 203 (relating to administration of the program) to read as set forth in Annex A.

A. *Effective Date*

These final-form regulations will be effective upon publication in the *Pennsylvania Bulletin*.

B. *Statutory Authority*

These final-form regulations are adopted under the authority of 53 Pa.C.S. Chapter 21, Subchapter D (relating to municipal police education and training) (act).

C. *Background and Purpose*

These final-form regulations implement the act which establishes the training and education requirements for employment as a police officer. The purpose of final-form regulation is to clarify and correct various aspects of the existing regulations. The following is a summary of the changes.

The amendment of § 203.11 (relating to qualifications) allows previously certified police officers and enlisted members of the State Police who are not currently employed as police officers 2 years to obtain employment as a police officer with another police department without going through the certification process provided the employment takes place within 2 years of the termination of police employment and that the member has already had a psychological evaluation.

The amendment of § 203.11(9)(ii)(F)(I) requires retesting of a failed subject area upon the successful completion of course work in the failed subject. An applicant's failure to pass the retest results in the requirement that the applicant shall retake the entire basic police-training course.

The amendment of §§ 203.33(b)(1) and 203.36(5) (relating to minimum school standards and requirements; and revocation of school certification) will permit schools to conduct only one basic recruit training class every 3 years instead of every year to retain school certification.

The amendment of § 203.83(a)(2) (relating to grants for nonmandatory in-service training programs) will allow law enforcement officers presently not eligible for reimbursement to attend nonmandatory training classes after paying tuition to the Commission.

D. *Comments Received*

Notice of proposed rule making was published at 28 Pa.B. 2925 (June 27, 1998) with an invitation to submit comments within 30 days of publication. The Commission received comments from Chief Charles Snyder of the Lower Allen Township Police (Dept. 91993 Hummel Ave., Camp Hill, PA 17011). Chief Detective Paul Gourley of the Bucks County District Attorney's office (Bucks County Courthouse, Doylestown, PA 18901) and the Independent Regulatory Review Commission (IRRC). The following is a summary of the comments received:

1. Chief Snyder suggested several nonregulatory Commission administrative concerns related to providing cer-

tified training to civilian employees of municipal police departments. Whereas the comments received from the chief are more properly considered statements, the Commission does not see the need to amend the regulations.

2. Detective Gourley's comments concerned § 203.11 of the proposed rulemaking. Specifically Detective Gourley requested that the current qualification requirements be upheld and that a 2-year certification waiver should be granted to an officer leaving a police department so long as the officer meets the minimum requirements of the act. The Commission concurred with the detective's comment and the final-form regulation was amended in § 203.11 to provide a 2-year waiver to an officer who held a valid Commission certification 2 years prior to the date of his next employment as a police officer.

3. IRRC made three comments on the proposed rulemaking which were focused on § 203.11 in the following areas:

a. IRRC first commented that the 2-year waiver of certification exemption provided by this section to applicants who were members of the State Police or act certified police officers should not waive the requirements that the applicant must have a criminal history record check prior to being hired as a municipal police officer. Secondly, IRRC commented that the members of the State Police seeking to take advantage of this 2-year exemption waiver should not be exempt from the one of the certification minimum standards which requires all certification applicants to undergo a psychological evaluation prior to employment.

In response to IRRC's first comment, for a police officer to be recertified under the act each department shall continually check the criminal history record of each certified police officer. Accordingly, any further requirement that would mandate a criminal history check for individuals who meet the requirements of this section would be duplicitous.

The Commission concurs with IRRC's second comment to this section and has changed the section to require a former member of the State Police who meets the exemption under this section to undergo a psychological evaluation prior to subsequent employment. This requirement is effective for all members who enlisted with the State Police prior to May 1998. This date was included because members of the State Police who enlisted after May 1998 were required to undergo a psychological evaluation prior to employment with the State Police.

b. IRRC's final comment recommended that the Commission not delete § 203.11(9)(ii)(F)(I) but instead redraft the section to specify conditions for an applicant who fails a section of an examination in the basic police training course. The Commission concurs with this recommendation and has redrafted the section in the final-form regulations.

E. *Compliance with Executive Order 1996-1*

In accordance with the requirements of Executive Order 1996-1, the Commission solicited input and suggestions from the regulated community and members of the Commission. These final-form regulations address a the compelling public interest as described in Section C of the Preamble and otherwise comply with Executive Order 1996-1.

F. *Benefits*

These final-form regulations will clearly benefit the citizens of this Commonwealth by further establishing and clarifying certification requirements for municipal police officers.

Specifically, amending § 203.11 will benefit those currently employed municipal police officers and State Police officers who cease their employment by waiving requirements for certification. Officers will have 2 years from the date they ceased their employment to be reemployed and have all requirements for certification waived. The 2-year waiver is valid so long as the officer was honorably discharged.

In addition, adding § 203.83(a)(2) benefits those law enforcement officers that are not permitted to attend nonmandatory in-service courses by allowing them to attend the training provided they pay tuition to the Commission. This also benefits the employer and the public due to the additional training provided.

G. *Effect*

The final-form regulations will effect certified police officers and members of the State Police.

The impact of the final-form regulations will effect both recruits and veteran police officers. Recruits will be required to be retrained at the school they presently attend. This will be a new policy. Also, veteran officers will be able to change departments within 2 years of leaving a police department without having to meet the certification standards.

Allowing schools to conduct one class every 3 years puts less of a burden on those schools that cannot get enough recruits to hold a class every year.

Amending the certification section allows those individuals that leave a police department or the State Police 2 years from the date of departure to obtain another police position without going through the certification process so long as the members of the State Police have previously undergone a psychological evaluation. This change will make the process used to change employment more consistent with other professions and will save the Commission an enormous amount of time as far as processing applications.

By allowing law enforcement officers who are not eligible for reimbursement to attend nonmandatory in-service training classes after paying a tuition to the Commission those agencies will have better trained officers and be able to be trained along with municipal police officers.

H. *Paperwork Requirements and Fiscal Impact*

The final-form regulations do not create additional paperwork requirements other than those already utilized by the Commission and the regulations will have no fiscal impact on the Commonwealth.

I. *Input*

These final-form regulations were drafted with input from the members of the Commission, the Pennsylvania State Police Chief Counsel's and Policy Office, members of the Pennsylvania Chiefs of Police Association, the Fraternal Order of Police and the Pennsylvania State Troopers Association.

J. *Review*

Due to the nature of these final-form regulations and the compelling public interest in having properly trained and certified municipal police officers, the Commission will continue to review its regulations and update them if necessary to ensure their overall effectiveness and monitor whether they continue to serve the interests of the citizenry of this Commonwealth.

K. *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on July 19, 2000, the Commission, through the State Police, submitted a copy of these final-form regulations to IRRC and to the Chairpersons of the House Judiciary Committee and the Senate Law and Justice Committee. In addition to submitting the final-form regulations in accordance with section 5(b) of the Regulatory Review Act, the Department has also provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form in compliance with Executive Order 1982-2, "Improving Government Regulations." A copy of the material is also available to the public upon request.

In preparing these final-form regulations, the Commission considered the comments received from IRRC, other commentators, the Committees and the regulated community.

IRRC contacted the Commission on August 3, 2000, and expressed concerns regarding several provisions in the final-form regulations relating to qualifications. On August 4, 2000, the Commission requested that the final-form regulations be tolled to permit the Commission to address the concerns expressed by IRRC. On August 8, 2000, IRRC approved the tolling request. The Department submitted revised final-regulations on September 6, 2000, to IRRC, the House Judiciary Committee and the Senate Law and Justice Committee. These final-form regulations were deemed approved by the House Judiciary Committee and the Senate Law and Justice Committee on September 16, 2000. IRRC met on September 21, 2000, and approved these final-form regulations in accordance with section 5(c) of the Regulatory Review Act.

L. *Contact Person*

The contact person is Major Richard C. Mooney, Executive Director, Municipal Police Officers' Education and Training Commission, 75 East Derry Road, Hershey, PA 17033. (717) 533-5987 Ext. 205.

M. *Findings*

The State Police and the Commission find that:

(1) Public notice of intention to amend these regulations amended by this order has been given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No 240) (45 P. S. §§ 1201 and 1202) and the regulations promulgated thereunder, 1 Pa. Code §§ 7.1 and 7.2.

(2) The amendment of the regulations of the State Police and the Commission in the manner provided in this order is necessary and appropriate. A public comment period was provided as required by law and that the comments received were considered.

(3) The modifications that were made to these final-form regulations in response to comments received do not enlarge the purpose or scope of the proposed rulemaking published at 28 Pa.B. 2925

(4) The adoption of the regulations in the manner provided is necessary and appropriate for the administration of the authorizing statute.

N. *Order*

The Commission, through the State Police, acting under the authorizing statutes, orders that:

(a) The regulations of the State Police, 37 Pa. Code Chapter 203, are amended by amending §§ 203.11,

203.33, 203.36 and 203.83 to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

(b) The Commissioner of the State Police shall submit this order and Annex A to the Office of Attorney General and the Office of General Counsel for approval as required by law.

(c) The Commissioner of the State Police shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(d) This order shall take effect immediately upon publication in the *Pennsylvania Bulletin*.

COLONEL PAUL J. EVANKO,
Commissioner

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 30 Pa.B. 5209 (October 7, 2000).)

Fiscal Note: Fiscal Note 17-62 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 37. LAW

PART IV. MUNICIPAL POLICE OFFICERS' EDUCATION AND TRAINING COMMISSION

Subpart A. MUNICIPAL POLICE OFFICERS' EDUCATION AND TRAINING PROGRAM

CHAPTER 203. ADMINISTRATION OF THE PROGRAM

Subchapter B. POLICE OFFICER CERTIFICATION REQUIREMENTS

§ 203.11. Qualifications.

(a) Except as provided in subsection (b), persons who are to be employed as police officers by police departments within this Commonwealth from December 21, 1996, shall:

- (1) Be 18 years of age or older.
- (2) Possess a high school diploma or GED Equivalency.
- (3) Be citizens of the United States.
- (4) Be free from convictions of disqualifying criminal offenses.
- (5) Be personally examined by a Pennsylvania licensed physician. The examination shall include the following:
 - (i) Applicants shall be free from the addictive or excessive use of either alcohol or drugs which shall be determined using current laboratory testing procedures.
 - (ii) Applicants shall be free from the use of illegal controlled substances which shall be determined using current laboratory testing procedures.
 - (iii) Applicants physical condition shall be such that applicants could reasonably be expected to withstand significant cardiovascular stress.

(iv) Applicants shall be free from any debilitating conditions such as tremor, incoordination, convulsion, fainting episodes or other neurological conditions which may affect the applicants' ability to perform as police officers.

(v) Applicants shall have visual acuity of at least 20/70, uncorrected in the stronger eye, correctable to at least 20/20; and at least 20/200, uncorrected in the weaker eye, correctable to at least 20/40. In addition, the applicant

shall have normal depth and color perception and be free of any other significant visual abnormality.

(Editor's Note: Subparagraph (v) is suspended pending resolution of a lawsuit filed against the Pennsylvania State Police (Wilson v. Pennsylvania State Police, et al. No. 94-6547 U.S. District Court—Eastern District of Pennsylvania. See 28 Pa.B. 2924 (June 27, 1998).)

(vi) Applicants shall have audio acuity sufficient to distinguish a normal whisper at a distance of 15 feet. The test shall be independently conducted for each ear while the tested ear is facing away from the speaker and the other ear is firmly covered with the palm of the hand. The applicant may not use a hearing aid or other aid to perform the test. If the applicant fails this test, the applicant shall be required to take and pass a decibel audio test.

(vii) Applicants may not be missing any extremities, including digits, which would prevent performance of required police duties or meeting minimum training requirements.

(viii) Applicants shall be free from any other significant physical limitations or disabilities which would, in the physician's opinion, impair the applicant's ability to perform the duties of a police officer or complete the required minimum training requirements.

(6) Be personally examined by a Pennsylvania licensed psychologist and found to be psychologically capable to exercise appropriate judgment or restraint in performing the duties of a police officer. The examination shall include the following elements:

(i) *Interview and history.* The psychologist shall personally interview the applicant. The interview shall include a summary of the applicant's personal, educational, employment and criminal history.

(ii) *Required psychological test.* Applicants shall be administered a current standard form of the Minnesota Multiphasic Personality Inventory (MMPI).

(iii) *Other testing methods.* If the licensed psychologist is unable to certify the applicant's psychological capability to exercise appropriate judgment and restraint to perform the duties of a police officer including the handling of a lethal weapon, the psychologist shall employ whatever other appropriate techniques to form a professional opinion of the applicant's ability. The use of these additional techniques requires a full and complete written explanation to the Commission on a form submitted by the psychologist to the Commission indicating what additional testing has been performed and the results of the tests.

(7) Certify whether they have taken a physical examination or psychological evaluation conducted in conjunction with an application for police employment within the previous year and the outcome of the examination or evaluation.

(8) Be subject to a thorough background investigation conducted by the applicant's employing police department. The investigation shall include the following:

(i) A criminal history check including the submission of fingerprints to the Central Repository for the Commonwealth and to the Federal Bureau of Investigation.

(ii) A check of the applicant's credit history.

(iii) Personal interviews conducted with at least 3 people that have personal knowledge of the applicant but are not related to the applicant.

(iv) Interviews of the applicant's employers, if any, for the past 5 years to determine the applicant's work history.

(v) A check of the applicant's driving record verifying that the applicant has a valid driver's license.

(9) Successfully complete a basic police training course given at a Commission-certified school or obtain a waiver of training as enumerated in § 203.12 (relating to waiver of training).

(i) Successful completion of a basic police training course shall be determined by the training school, based upon Commission standards.

(ii) To qualify for this certification, an applicant shall:

(A) Achieve a minimum qualifying firearms score of 75%.

(B) Receive certification for First Aid and CPR from the American Red Cross, the Department of Health, the American Heart Association or other agencies approved by the Department of Health.

(C) Comply with Commission and school rules and regulations.

(D) Pass the same certification exam administered to those seeking waiver of training as set forth in § 203.12(4).

(E) Attend 100% of all classes.

(I) Excused absences shall be mutually agreed upon by the police officer's department head and school director. School directors shall determine excused absences for applicants not employed as police officers.

(II) Excused absentees shall include personal illness or injury, illness in the immediate family requiring the applicant's attention or death in the immediate family.

(F) Complete the basic training course approved by the Commission with a minimum grade as established by the Commission. The Commission will publish a notice in the *Pennsylvania Bulletin* and in the Commission newsletter whenever the minimum grade on each tested area of examination changes.

(I) Applicants not achieving the minimum grade in any tested area shall repeat the failed training in that area before being eligible to take the examination in that tested area at a Commission-certified school. If the applicant fails to achieve the minimum grade on the applicant's second attempt, the applicant shall be required to successfully retake and pass the entire basic police training course to qualify for certification.

(II) Applicants not achieving the minimum grade in two separate tested areas during one basic police training course shall be required to retake and pass the entire basic police training course in order to qualify for certification.

(b) Subsection (a) does not apply to persons who meet one of the following conditions:

(1) Previously held valid certification issued by the Commission within 2 years prior to the date of employment on the application. Persons who received a certification prior to 1988 and who did not have a psychological evaluation shall obtain a psychological evaluation to obtain certification.

(2) Were sworn and full duty members honorably discharged from the Pennsylvania State Police within 2 years prior to the date of employment on the application for certification. A past member who enlisted in the

Pennsylvania State Police prior to May 1998 and who did not have a psychological evaluation shall obtain a psychological evaluation to obtain certification.

Subchapter C. SCHOOL REQUIREMENTS

§ 203.33. Minimum school standards and requirements.

* * * * *

(b) In addition to subsection (a), schools shall comply with the following requirements:

(1) Conduct at least one basic police training course every 3 years the school is certified.

* * * * *

§ 203.36. Revocation of school certification.

The Commission may, after notice and hearings in compliance with Subchapter G (relating to notice and hearings), revoke the certification of a school for one of the following reasons:

(1) Failure to comply with the minimum school standards in this chapter.

(2) Submission of a known false or fraudulent document or allowing the submission of known false or fraudulent documents to the Commission.

(3) Subcontracting of police training to another noncertified entity.

(4) Failure to take corrective action after suspension under § 203.35 (relating to emergency suspension of school certification).

(5) Failure to conduct one basic police training course every 3 years the school is certified.

Subchapter F. REIMBURSEMENT OF EXPENSES

§ 203.83. Grants for nonmandatory in-service training programs.

(a) The Commission will provide grants only for actual expenses incurred by political subdivisions for providing nonmandatory in-service training programs to police officers within this Commonwealth in accordance with the act and this chapter.

(1) Allowable nonmandatory in-service training expenses shall be limited to the following:

(i) *Instructors.* Reasonable expenditures.

(ii) *Services.* Reasonable expenditures for rental and contractual services.

(iii) *Supplies.* Expenditure for necessary supplies for course instruction not including nonexpendable equipment purchases.

(iv) *Administration.* Reasonable expenditures for developing and implementing the training program. This expenditure will not exceed 5% of the total grant amount unless otherwise approved by the Commission or In-Service Training Committee. This expenditure may not exceed 10% of the total grant amount.

(2) The Commission has the discretion to approve additional expenditures not explicitly provided for in this chapter. Expenses which are not approved by the Commission shall be borne by the political subdivision providing the training program. Law enforcement officers employed by a law enforcement agency not eligible for reimbursement under the act may attend nonmandatory in-service training courses after the law enforcement agency pays the tuition established for the course to the Commission.

(b) The Commission has the authority to establish the maximum amount of funds which may be granted to each county for providing nonmandatory in-service training to police officers. The allocation will be based on the number of police officers employed in the county.

(c) The Commission will disburse moneys approved for nonmandatory in-service training grants in the following manner:

(1) The Commission will disburse one half of the grant to the political subdivision within 45 days of the Commission's approval, except for good cause.

(2) To receive the remaining grant moneys, the political subdivision shall submit a final audit and course roster to the Commission within 120 days following the conclusion of the training course. Requests for reimbursement will not be considered after 120 days following the conclusion of the training course.

(3) The Commission has the discretion to request an

independent audit of the political subdivision to verify its actual nonmandatory training expenditures prior to disbursing the remaining grant amount.

(d) Nonmandatory in-service training grant funds that have been disbursed to a political subdivision in error or as a result of an unauthorized or improper request for reimbursement shall immediately be returned to the Commission. A political subdivision which fails to comply with the Commission's demand for the return of funds in accordance with this section shall be ineligible for further funding from the Commission until the funds are returned.

(e) The allocation of grants for nonmandatory in-service training programs shall be contingent upon the availability of funds appropriated for the programs.

[Pa.B. Doc. No. 01-1835. Filed for public inspection October 12, 2001, 9:00 a.m.]